

COMMITTEE ON HEALTH

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2470

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 32-2065, Arizona Revised Statutes, is amended to read:

32-2065. Board of psychologist examiners fund; account

A. The board of psychologist examiners fund is established.

B. Except as provided in section 32-2081, pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies collected pursuant to this chapter in the state general fund and deposit the remaining ninety per cent in the board of psychologist examiners fund.

C. All monies deposited in the board of psychologist examiners fund are subject to section 35-143.01.

D. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT IN THE FUND FOR MONIES TRANSFERRED TO THE FUND PURSUANT TO SECTION 32-4305.

Sec. 2. Title 32, Arizona Revised Statutes, is amended by adding chapter 43, to read:

CHAPTER 43

BEHAVIOR ANALYST BOARD

ARTICLE 1. GENERAL PROVISIONS

32-4301. Definitions

A. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ACTIVE LICENSE" MEANS A CURRENT LICENSE ISSUED BY THE BOARD.

2. "ADEQUATE RECORDS" MEANS RECORDS THAT CONTAIN, AT A MINIMUM, SUFFICIENT INFORMATION TO IDENTIFY THE CLIENT, THE DATES OF SERVICE, THE FEE FOR SERVICE, THE PAYMENTS FOR SERVICE AND THE TYPE OF SERVICE GIVEN AND COPIES OF ANY REPORTS THAT MAY HAVE BEEN MADE.

3. "BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION AND EVALUATION OF SYSTEMATIC ENVIRONMENTAL MODIFICATIONS BY A BEHAVIOR ANALYST TO PRODUCE SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR BASED ON THE PRINCIPLES

1 OF BEHAVIOR IDENTIFIED THROUGH THE EXPERIMENTAL ANALYSIS OF BEHAVIOR.
2 BEHAVIOR ANALYSIS DOES NOT INCLUDE COGNITIVE THERAPIES OR PSYCHOLOGICAL
3 TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, SEX THERAPY, PSYCHOANALYSIS,
4 HYPNOTHERAPY AND LONG-TERM COUNSELING AS TREATMENT MODALITIES.

5 4. "BEHAVIOR ANALYSIS SERVICES" MEANS THE USE OF BEHAVIOR ANALYSIS TO
6 ASSIST A PERSON TO LEARN NEW BEHAVIOR, INCREASE EXISTING BEHAVIOR, REDUCE
7 EXISTING BEHAVIOR AND EMIT BEHAVIOR UNDER PRECISE ENVIRONMENTAL CONDITIONS.
8 BEHAVIOR ANALYSIS INCLUDES BEHAVIORAL PROGRAMMING AND BEHAVIORAL PROGRAMS.

9 5. "BEHAVIOR ANALYST" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS
10 CHAPTER TO PRACTICE BEHAVIOR ANALYSIS.

11 6. "BOARD" MEANS THE BEHAVIOR ANALYST BOARD.

12 7. "CLIENT" MEANS:

13 (a) A PERSON OR ENTITY THAT RECEIVES BEHAVIOR ANALYSIS SERVICES.

14 (b) A CORPORATE ENTITY, A GOVERNMENTAL ENTITY OR ANY OTHER
15 ORGANIZATION THAT HAS A PROFESSIONAL CONTRACT TO PROVIDE SERVICES OR BENEFITS
16 PRIMARILY TO AN ORGANIZATION RATHER THAN TO AN INDIVIDUAL.

17 (c) AN INDIVIDUAL'S LEGAL GUARDIAN FOR DECISION MAKING PURPOSES,
18 EXCEPT THAT THE INDIVIDUAL IS THE CLIENT FOR ISSUES THAT DIRECTLY AFFECT THE
19 INDIVIDUAL'S PHYSICAL OR EMOTIONAL SAFETY AND ISSUES THAT THE LEGAL GUARDIAN
20 AGREES TO SPECIFICALLY RESERVE TO THE INDIVIDUAL.

21 8. "EXPLOIT" MEANS AN ACTION BY A BEHAVIOR ANALYST WHO TAKES UNDUE
22 ADVANTAGE OF THE PROFESSIONAL ASSOCIATION WITH A CLIENT, STUDENT OR
23 SUPERVISEE FOR THE ADVANTAGE OR PROFIT OF THE BEHAVIOR ANALYST.

24 9. "HEALTH CARE INSTITUTION" MEANS A FACILITY THAT IS LICENSED
25 PURSUANT TO TITLE 36, CHAPTER 4, ARTICLE 1, A PERSON WHO IS AUTHORIZED TO
26 TRANSACT DISABILITY INSURANCE PURSUANT TO TITLE 20, CHAPTER 6, ARTICLE 4 OR 5
27 OR A PERSON WHO IS ISSUED A CERTIFICATE OF AUTHORITY PURSUANT TO TITLE 20,
28 CHAPTER 4, ARTICLE 9.

29 10. "LETTER OF CONCERN" MEANS AN ADVISORY LETTER TO NOTIFY A LICENSEE
30 THAT WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION THE
31 BOARD BELIEVES THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND

1 THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION BEING
2 SUBMITTED TO THE BOARD MAY RESULT IN ACTION AGAINST THE LICENSE.

3 11. "SUPERVISEE" MEANS A PERSON WHO ACTS UNDER THE EXTENDED AUTHORITY
4 OF A BEHAVIOR ANALYST TO PROVIDE BEHAVIORAL SERVICES AND INCLUDES A PERSON
5 WHO IS IN TRAINING TO PROVIDE THESE SERVICES.

6 12. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTIVITIES, WHETHER
7 OCCURRING IN THIS STATE OR ELSEWHERE:

8 (a) OBTAINING A FEE BY FRAUD OR MISREPRESENTATION.

9 (b) BETRAYING PROFESSIONAL CONFIDENCES.

10 (c) MAKING OR USING STATEMENTS OF A CHARACTER TENDING TO DECEIVE OR
11 MISLEAD.

12 (d) AIDING OR ABETTING A PERSON WHO IS NOT LICENSED PURSUANT TO THIS
13 CHAPTER IN REPRESENTING THAT PERSON AS A BEHAVIOR ANALYST.

14 (e) GROSS NEGLIGENCE IN THE PRACTICE OF A BEHAVIOR ANALYST.

15 (f) SEXUAL INTIMACIES OR SEXUAL INTERCOURSE WITH A CURRENT CLIENT OR A
16 SUPERVISEE OR WITH A FORMER CLIENT WITHIN TWO YEARS AFTER THE CESSATION OR
17 TERMINATION OF TREATMENT. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL
18 INTERCOURSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1401.

19 (g) ENGAGING OR OFFERING TO ENGAGE AS A BEHAVIOR ANALYST IN ACTIVITIES
20 THAT ARE NOT CONGRUENT WITH THE BEHAVIOR ANALYST'S PROFESSIONAL EDUCATION,
21 TRAINING AND EXPERIENCE.

22 (h) FAILING OR REFUSING TO MAINTAIN AND RETAIN ADEQUATE BUSINESS,
23 FINANCIAL OR PROFESSIONAL RECORDS PERTAINING TO THE BEHAVIOR ANALYSIS
24 SERVICES PROVIDED TO A CLIENT.

25 (i) COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR
26 A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A
27 COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE
28 EVIDENCE OF THE COMMISSION.

29 (j) MAKING A FRAUDULENT OR UNTRUE STATEMENT TO THE BOARD OR ITS
30 INVESTIGATORS, STAFF OR CONSULTANTS.

31 (k) VIOLATING ANY FEDERAL OR STATE LAW THAT RELATES TO THE PRACTICE OF
32 BEHAVIOR ANALYSIS OR TO OBTAIN A LICENSE TO PRACTICE BEHAVIOR ANALYSIS.

1 (l) PRACTICING BEHAVIOR ANALYSIS WHILE IMPAIRED OR INCAPACITATED TO
2 THE EXTENT AND IN A MANNER THAT JEOPARDIZES THE WELFARE OF A CLIENT OR
3 RENDERS THE SERVICES PROVIDED INEFFECTIVE.

4 (m) USING FRAUD, MISREPRESENTATION OR DECEPTION TO OBTAIN OR ATTEMPT
5 TO OBTAIN A BEHAVIOR ANALYSIS LICENSE OR TO PASS OR ATTEMPT TO PASS A
6 BEHAVIOR ANALYSIS LICENSING EXAMINATION OR IN ASSISTING ANOTHER PERSON TO DO
7 SO.

8 (n) UNPROFESSIONAL CONDUCT IN ANOTHER JURISDICTION THAT RESULTED IN
9 CENSURE, PROBATION OR A CIVIL PENALTY OR IN THE DENIAL, SUSPENSION,
10 RESTRICTION OR REVOCATION OF A CERTIFICATE OR LICENSE TO PRACTICE AS A
11 BEHAVIOR ANALYST.

12 (o) PROVIDING SERVICES THAT ARE UNNECESSARY OR UNSAFE OR OTHERWISE
13 ENGAGING IN ACTIVITIES AS A BEHAVIOR ANALYST THAT ARE UNPROFESSIONAL BY
14 CURRENT STANDARDS OF PRACTICE.

15 (p) FALSELY OR FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PROFESSIONAL
16 SERVICE, CHARGING FOR A SERVICE OR REPRESENTING A SERVICE AS THE LICENSEE'S
17 OWN IF THE LICENSEE HAS NOT RENDERED THE SERVICE OR ASSUMED SUPERVISORY
18 RESPONSIBILITY FOR THE SERVICE.

19 (q) REPRESENTING ACTIVITIES OR SERVICES AS BEING PERFORMED UNDER THE
20 LICENSEE'S SUPERVISION IF THE BEHAVIOR ANALYST HAS NOT ASSUMED RESPONSIBILITY
21 FOR THEM AND HAS NOT EXERCISED CONTROL, OVERSIGHT AND REVIEW.

22 (r) FAILING TO OBTAIN A CLIENT'S INFORMED AND WRITTEN CONSENT TO
23 RELEASE PERSONAL OR OTHERWISE CONFIDENTIAL INFORMATION TO ANOTHER PARTY
24 UNLESS THE RELEASE IS OTHERWISE AUTHORIZED BY LAW.

25 (s) FAILING TO MAKE CLIENT RECORDS IN THE BEHAVIOR ANALYST'S
26 POSSESSION PROMPTLY AVAILABLE TO ANOTHER BEHAVIOR ANALYST ON RECEIPT OF
27 PROPER AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S PARENT, THE
28 CLIENT'S LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE OR FAILING
29 TO COMPLY WITH TITLE 12, CHAPTER 13, ARTICLE 7.1.

30 (t) FAILING TO TAKE REASONABLE STEPS TO INFORM OR PROTECT A CLIENT'S
31 INTENDED VICTIM AND INFORM THE PROPER LAW ENFORCEMENT OFFICIALS IF THE
32 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING

1 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
2 BODILY HARM ON ANOTHER PERSON.

3 (u) FAILING TO TAKE REASONABLE STEPS TO PROTECT A CLIENT IF THE
4 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING
5 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
6 BODILY HARM ON HIMSELF.

7 (v) ABANDONING OR NEGLECTING A CLIENT IN NEED OF IMMEDIATE CARE
8 WITHOUT MAKING SUITABLE ARRANGEMENTS FOR CONTINUATION OF THE CARE.

9 (w) ENGAGING IN DIRECT OR INDIRECT PERSONAL SOLICITATION OF CLIENTS
10 THROUGH THE USE OF COERCION, DURESS, UNDUE INFLUENCE, COMPULSION OR
11 INTIMIDATION PRACTICES.

12 (x) ENGAGING IN FALSE, DECEPTIVE OR MISLEADING ADVERTISING.

13 (y) EXPLOITING A CLIENT, STUDENT OR SUPERVISEE.

14 (z) FAILING TO REPORT INFORMATION TO THE BOARD REGARDING A POSSIBLE
15 ACT OF UNPROFESSIONAL CONDUCT COMMITTED BY ANOTHER BEHAVIOR ANALYST WHO IS
16 LICENSED PURSUANT TO THIS CHAPTER UNLESS THIS REPORTING VIOLATES THE BEHAVIOR
17 ANALYST'S CONFIDENTIAL RELATIONSHIP WITH A CLIENT PURSUANT TO THIS CHAPTER.
18 A BEHAVIOR ANALYST WHO REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD
19 FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES.

20 (aa) VIOLATING A FORMAL BOARD ORDER, CONSENT AGREEMENT, TERM OF
21 PROBATION OR STIPULATED AGREEMENT ISSUED UNDER THIS CHAPTER.

22 (bb) FAILING TO FURNISH INFORMATION IN A TIMELY MANNER TO THE BOARD OR
23 ITS INVESTIGATORS OR REPRESENTATIVES IF REQUESTED OR SUBPOENAED BY THE BOARD
24 AS PRESCRIBED BY THIS CHAPTER.

25 (cc) FAILING TO MAKE AVAILABLE TO A CLIENT OR TO THE CLIENT'S
26 DESIGNATED REPRESENTATIVE, ON WRITTEN REQUEST, A COPY OF THE CLIENT'S RECORD,
27 EXCLUDING RAW TEST DATA, PSYCHOMETRIC TESTING MATERIALS AND OTHER INFORMATION
28 AS PROVIDED BY LAW.

29 (dd) VIOLATING AN ETHICAL STANDARD ADOPTED BY THE BOARD.

30 B. THE BOARD SHALL NOT CONSIDER A COMPLAINT AGAINST A BEHAVIOR ANALYST
31 ARISING OUT OF A JUDICIALLY ORDERED EVALUATION OF A PERSON CHARGED WITH
32 VIOLATING ANY PROVISION OF TITLE 13, CHAPTER 14 TO PRESENT A CHARGE OF

1 UNPROFESSIONAL CONDUCT UNLESS THE COURT ORDERING THE EVALUATION HAS FOUND A
2 SUBSTANTIAL BASIS TO REFER THE COMPLAINT FOR CONSIDERATION BY THE BOARD.

3 32-4302. Board; members; qualifications; appointments; terms;
4 compensation; immunity

5 A. THE BEHAVIOR ANALYST BOARD IS ESTABLISHED CONSISTING OF FIVE
6 MEMBERS WHO ARE APPOINTED BY THE GOVERNOR PURSUANT TO SECTION 38-211.

7 B. EACH MEMBER OF THE BOARD SHALL BE A CITIZEN OF THE UNITED STATES
8 AND A RESIDENT OF THIS STATE AT THE TIME OF APPOINTMENT. THREE MEMBERS SHALL
9 BE LICENSED PURSUANT TO THIS CHAPTER AND TWO SHALL BE PUBLIC MEMBERS WHO ARE
10 NOT ELIGIBLE FOR LICENSURE. THE BOARD SHALL HAVE AT ALL TIMES, EXCEPT FOR
11 THE PERIOD WHEN A VACANCY EXISTS, AT LEAST ONE MEMBER WHO IS LICENSED AND WHO
12 IS A FULL-TIME FACULTY MEMBER AT A UNIVERSITY IN THIS STATE THAT HAS A
13 GRADUATE TRAINING PROGRAM IN BEHAVIOR ANALYSIS THAT MEETS THE REQUIREMENTS OF
14 THIS CHAPTER AND AT LEAST TWO MEMBERS WHO ARE BEHAVIOR ANALYSTS IN
15 PROFESSIONAL PRACTICE. THE PUBLIC MEMBERS SHALL NOT HAVE A SUBSTANTIAL
16 FINANCIAL INTEREST IN THE HEALTH CARE INDUSTRY AND SHALL NOT HAVE A HOUSEHOLD
17 MEMBER WHO IS ELIGIBLE FOR LICENSURE UNDER THIS CHAPTER.

18 C. EACH MEMBER SHALL SERVE FOR A TERM OF FIVE YEARS BEGINNING AND
19 ENDING ON THE THIRD MONDAY IN JANUARY.

20 D. A VACANCY ON THE BOARD OCCURRING OTHER THAN BY EXPIRATION OF THE
21 TERM SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR FOR THE UNEXPIRED TERM AS
22 PROVIDED IN SUBSECTION C OF THIS SECTION. THE GOVERNOR, AFTER A HEARING, MAY
23 REMOVE ANY MEMBER OF THE BOARD FOR MISCONDUCT, INCOMPETENCY OR NEGLECT OF
24 DUTY.

25 E. BOARD MEMBERS MAY RECEIVE COMPENSATION IN AN AMOUNT OF NOT MORE
26 THAN ONE HUNDRED DOLLARS FOR EACH CUMULATIVE EIGHT HOURS OF ACTUAL SERVICE IN
27 THE BUSINESS OF THE BOARD AND REIMBURSEMENT OF ALL EXPENSES PURSUANT TO TITLE
28 38, CHAPTER 4, ARTICLE 2.

29 F. MEMBERS OF THE BOARD AND ITS EMPLOYEES, CONSULTANTS AND TEST
30 EXAMINERS ARE PERSONALLY IMMUNE FROM SUIT WITH RESPECT TO ALL ACTS DONE AND
31 ACTIONS TAKEN IN GOOD FAITH AND IN FURTHERANCE OF THE PURPOSES OF THIS
32 CHAPTER.

32-4303. Powers and duties

A. THE BOARD SHALL:

1. ADMINISTER AND ENFORCE THIS CHAPTER AND BOARD RULES.

2. REGULATE DISCIPLINARY ACTIONS, THE GRANTING, DENIAL, REVOCATION, RENEWAL AND SUSPENSION OF LICENSES AND THE REHABILITATION OF LICENSEES PURSUANT TO THIS CHAPTER AND BOARD RULES.

3. PRESCRIBE THE FORMS, CONTENT AND MANNER OF APPLICATION FOR LICENSURE AND RENEWAL OF LICENSURE AND SET DEADLINES FOR THE RECEIPT OF MATERIALS REQUIRED BY THE BOARD.

4. KEEP A RECORD OF ALL LICENSEES, BOARD ACTIONS TAKEN ON ALL APPLICANTS AND LICENSEES AND THE RECEIPT AND DISBURSAL OF MONIES.

5. ADOPT AN OFFICIAL SEAL FOR ATTESTATION OF LICENSES AND OTHER OFFICIAL PAPERS AND DOCUMENTS.

6. INVESTIGATE CHARGES OF VIOLATIONS OF THIS CHAPTER AND BOARD RULES AND ORDERS.

7. ANNUALLY ELECT FROM AMONG ITS MEMBERSHIP A CHAIRPERSON, A VICE-CHAIRPERSON AND A SECRETARY.

8. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 TO CARRY OUT THIS CHAPTER AND TO DEFINE UNPROFESSIONAL CONDUCT.

9. ENGAGE IN A FULL EXCHANGE OF INFORMATION WITH OTHER REGULATORY BOARDS AND ASSOCIATIONS, NATIONAL ORGANIZATIONS AND STATEWIDE AND REGIONAL ASSOCIATIONS.

10. BY RULE, ADOPT A CODE OF ETHICS RELATING TO THE PRACTICE OF BEHAVIOR ANALYSIS THAT IS BASED ON THE CODE OF ETHICS ADOPTED AND PUBLISHED BY THE NATIONAL BEHAVIOR ANALYSIS CERTIFICATION BOARD. THE BOARD SHALL APPLY THE CODE TO ALL BOARD ENFORCEMENT POLICIES AND DISCIPLINARY CASE EVALUATIONS AND TO THE DEVELOPMENT OF LICENSING EXAMINATIONS.

B. THE BOARD MAY EMPLOY PERMANENT OR TEMPORARY PERSONNEL IT DEEMS NECESSARY TO CARRY OUT THIS CHAPTER, EXCEPT THAT THE EXECUTIVE DIRECTOR OF THE STATE BOARD OF PSYCHOLOGIST EXAMINERS SHALL SERVE AS THE EXECUTIVE DIRECTOR OF THE BEHAVIOR ANALYST BOARD AND THE STAFF OF THE STATE BOARD OF

1 PSYCHOLOGIST EXAMINERS SHALL CARRY OUT THE ADMINISTRATIVE RESPONSIBILITIES OF
2 THE BEHAVIOR ANALYST BOARD.

3 C. THE BOARD, IN INVESTIGATING VIOLATIONS OF THIS CHAPTER, MAY EMPLOY
4 INVESTIGATORS WHO MAY BE BEHAVIOR ANALYSTS. THE BOARD OR ITS EXECUTIVE
5 DIRECTOR MAY TAKE AND HEAR EVIDENCE, ADMINISTER OATHS AND AFFIRMATIONS AND
6 COMPEL BY SUBPOENA THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS,
7 PAPERS, RECORDS, DOCUMENTS AND OTHER INFORMATION RELATING TO THE
8 INVESTIGATION OR HEARING.

9 D. THE BOARD MAY ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS,
10 GIFTS, CONTRIBUTIONS AND DEVICES TO ASSIST IT IN CARRYING OUT THE PURPOSES OF
11 THIS CHAPTER.

12 32-4304. Meetings; committees; quorum

13 A. THE BOARD SHALL HOLD REGULAR QUARTERLY MEETINGS AT A TIME AND PLACE
14 DETERMINED BY THE CHAIRPERSON. THE BOARD SHALL HOLD SPECIAL MEETINGS THE
15 CHAIRPERSON DETERMINES NECESSARY TO CARRY OUT THE FUNCTIONS OF THE BOARD.

16 B. THE CHAIRPERSON MAY ESTABLISH COMMITTEES FROM THE BOARD MEMBERSHIP
17 NECESSARY TO CARRY OUT THE FUNCTIONS OF THE BOARD. THE BOARD MAY ESTABLISH
18 COMMITTEES OF LICENSED BEHAVIOR ANALYSTS TO ACT AS CONSULTANTS TO THE
19 BOARD. MEMBERS OF CONSULTANT COMMITTEES ARE ELIGIBLE FOR REIMBURSEMENT OF
20 EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

21 C. A MAJORITY OF BOARD MEMBERS CONSTITUTES A QUORUM AND A MAJORITY
22 VOTE OF A QUORUM PRESENT IS NECESSARY FOR THE BOARD TO TAKE ANY ACTION.

23 32-4305. Deposit of monies received by the board

24 EXCEPT AS PROVIDED IN SECTION 32-4351, SUBSECTION I THE BOARD SHALL
25 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, TEN PER CENT OF ALL MONIES
26 COLLECTED PURSUANT TO THIS CHAPTER IN THE STATE GENERAL FUND AND DEPOSIT THE
27 REMAINING NINETY PER CENT IN THE ACCOUNT ESTABLISHED FOR THE BEHAVIOR ANALYST
28 BOARD IN THE BOARD OF PSYCHOLOGIST EXAMINERS FUND ESTABLISHED BY SECTION
29 32-2065.

30 32-4306. Directory; change of address; costs; civil penalty

31 A. THE BOARD SHALL COMPILE AND PUBLISH ON ITS WEBSITE A DIRECTORY
32 CONTAINING:

1. THE NAMES AND ADDRESSES OF THE OFFICERS AND MEMBERS OF THE BOARD.
2. THE NAMES AND ADDRESSES OF ALL LICENSEES.
3. CURRENT BOARD RULES.
4. A COPY OF THIS CHAPTER.
5. ADDITIONAL INFORMATION THE BOARD DEEMS OF INTEREST AND IMPORTANCE TO LICENSEES.

B. A LICENSEE SHALL INFORM THE BOARD IN WRITING OF THE LICENSEE'S CURRENT RESIDENCE ADDRESS, OFFICE ADDRESS AND TELEPHONE NUMBER WITHIN THIRTY DAYS AFTER EACH CHANGE IN THIS INFORMATION. THE BOARD MAY ASSESS THE COSTS INCURRED BY THE BOARD IN LOCATING A LICENSEE AND MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS AGAINST A LICENSEE WHO FAILS TO NOTIFY THE BOARD WITHIN THIRTY DAYS AFTER THE DATE OF ANY CHANGE OF INFORMATION REQUIRED TO BE REPORTED UNDER THIS SUBSECTION.

32-4307. Fees

A. THE BOARD, BY A FORMAL VOTE, SHALL ESTABLISH FEES FOR THE FOLLOWING:

1. AN APPLICATION FOR AN ACTIVE LICENSE.
2. AN APPLICATION FOR A TEMPORARY LICENSE.
3. RENEWAL OF AN ACTIVE LICENSE.
4. ISSUANCE OF AN INITIAL LICENSE.

B. THE BOARD MAY CHARGE ADDITIONAL FEES FOR SERVICES IT DEEMS NECESSARY AND APPROPRIATE TO CARRY OUT THIS CHAPTER. THESE FEES SHALL NOT EXCEED THE ACTUAL COST OF PROVIDING THE SERVICE.

C. THE BOARD SHALL NOT REFUND FEES EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER. ON SPECIAL REQUEST AND FOR GOOD CAUSE, THE BOARD MAY RETURN THE LICENSE RENEWAL FEE.

ARTICLE 2. LICENSURE

32-4321. Qualifications of applicant

BEGINNING JANUARY 1, 2010, A PERSON WHO WISHES TO PRACTICE AS A BEHAVIORAL ANALYST MUST BE LICENSED PURSUANT TO THIS ARTICLE. AN APPLICANT FOR LICENSURE MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

1. SUBMIT AN APPLICATION AS PRESCRIBED BY THE BOARD.

1 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.

2 3. BE OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
3 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

4 4. PAY ALL APPLICABLE FEES PRESCRIBED BY THE BOARD.

5 5. HAVE THE PHYSICAL AND MENTAL CAPABILITY TO SAFELY AND COMPETENTLY
6 ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

7 6. NOT HAVE COMMITTED ANY ACT OR ENGAGED IN ANY CONDUCT THAT WOULD
8 CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSEE PURSUANT TO
9 THIS CHAPTER.

10 7. NOT HAVE HAD A PROFESSIONAL LICENSE OR CERTIFICATE REFUSED,
11 REVOKED, SUSPENDED OR RESTRICTED IN ANY REGULATORY JURISDICTION IN THE UNITED
12 STATES OR IN ANOTHER COUNTRY FOR REASONS THAT RELATE TO UNPROFESSIONAL
13 CONDUCT. IF THE BOARD FINDS THAT THE APPLICANT COMMITTED AN ACT OR ENGAGED
14 IN CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN THIS
15 STATE, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CONDUCT HAS
16 BEEN CORRECTED, MONITORED AND RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED,
17 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT MITIGATING CIRCUMSTANCES
18 EXIST THAT PREVENT ITS RESOLUTION.

19 8. NOT HAVE VOLUNTARILY SURRENDERED A LICENSE OR CERTIFICATE IN
20 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR IN ANOTHER COUNTRY
21 WHILE UNDER INVESTIGATION FOR REASONS THAT RELATE TO UNPROFESSIONAL CONDUCT.
22 IF ANOTHER JURISDICTION HAS TAKEN DISCIPLINARY ACTION AGAINST AN APPLICANT,
23 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CAUSE FOR THE ACTION
24 WAS CORRECTED AND THE MATTER RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED
25 BY THAT JURISDICTION, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT
26 MITIGATING CIRCUMSTANCES EXIST THAT PREVENT ITS RESOLUTION.

27 9. NOT HAVE A COMPLAINT, ALLEGATION OR INVESTIGATION PENDING BEFORE
28 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR ANOTHER COUNTRY THAT
29 RELATES TO UNPROFESSIONAL CONDUCT. IF AN APPLICANT HAS ANY SUCH COMPLAINTS,
30 ALLEGATIONS OR INVESTIGATIONS PENDING, THE BOARD SHALL SUSPEND THE
31 APPLICATION PROCESS AND MAY NOT ISSUE OR DENY A LICENSE TO THE APPLICANT
32 UNTIL THE COMPLAINT, ALLEGATION OR INVESTIGATION IS RESOLVED.

32-4322. Educational and training qualifications for licensure

A. AN APPLICANT FOR LICENSURE AS A BEHAVIOR ANALYST MUST:

1. HAVE A GRADUATE DEGREE, MASTER'S DEGREE OR DOCTORATE DEGREE FROM AN ACCREDITED COLLEGE OR UNIVERSITY OR INSTITUTION OF HIGHER LEARNING ACCREDITED BY A RECOGNIZED ACCREDITING AGENCY.

2. IF THE APPLICANT COMPLETES A DEGREE, COURSEWORK AND WORK EXPERIENCE REQUIREMENTS AFTER JANUARY 1, 2000, COMPLETE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF SUPERVISED WORK EXPERIENCE OR INDEPENDENT FIELDWORK IN THE PRACTICE OF APPLIED BEHAVIOR ANALYSIS IN NOT LESS THAN TWELVE MONTHS.

3. HAVE AS PART OF OR IN ADDITION TO THE COURSEWORK REQUIRED FOR THE GRADUATE DEGREE AT LEAST TWO HUNDRED TWENTY-FIVE CLASSROOM HOURS OF SPECIFIC GRADUATE LEVEL INSTRUCTION THAT MEET NATIONALLY RECOGNIZED STANDARDS FOR BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD.

4. HAVE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF SUPERVISED WORK EXPERIENCE AS A BEHAVIOR ANALYST ENGAGED IN TASKS THAT MEET NATIONALLY RECOGNIZED STANDARDS FOR BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD. THE SUPERVISED WORK EXPERIENCE HOURS MUST BE COMPLETED AFTER THE APPLICANT COMPLETES THE REQUIRED COURSEWORK PRESCRIBED PURSUANT TO PARAGRAPH 3 OF THIS SUBSECTION.

B. THE SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4 MUST INCLUDE THE FOLLOWING:

1. CONDUCTING BEHAVIORAL ASSESSMENTS AND ASSESSMENT ACTIVITIES RELATED TO THE NEED FOR BEHAVIORAL INTERVENTIONS.

2. DESIGNING, IMPLEMENTING AND MONITORING BEHAVIOR ANALYSIS PROGRAMS FOR CLIENTS.

3. OVERSEEING THE IMPLEMENTATION OF BEHAVIOR ANALYSIS PROGRAMS BY OTHERS.

4. OTHER ACTIVITIES NORMALLY PERFORMED BY A BEHAVIOR ANALYST THAT ARE DIRECTLY RELATED TO BEHAVIOR ANALYSIS, SUCH AS ATTENDING PLANNING MEETINGS REGARDING THE BEHAVIOR ANALYSIS PROGRAM, RESEARCHING THE LITERATURE RELATED TO THE PROGRAM, TALKING TO INDIVIDUALS ABOUT THE PROGRAM AND ANY ADDITIONAL

1 ACTIVITIES RELATED TO OVERSIGHT OF BEHAVIORAL PROGRAMMING SUCH AS BEHAVIOR
2 ANALYST SUPERVISION ISSUES OR EVALUATION OF BEHAVIOR ANALYSTS' PERFORMANCE.

3 C. THE FOLLOWING ACTIVITIES ARE NOT CONSIDERED SUPERVISED WORK
4 EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4:

- 5 1. ATTENDING MEETINGS WITH LITTLE OR NO BEHAVIOR ANALYTIC CONTENT.
- 6 2. PROVIDING INTERVENTIONS THAT ARE NOT BASED IN BEHAVIOR ANALYSIS.
- 7 3. DOING NONBEHAVIOR ANALYTIC ADMINISTRATIVE ACTIVITIES.
- 8 4. ANY OTHER ACTIVITIES THAT ARE NOT DIRECTLY RELATED TO BEHAVIOR
9 ANALYSIS.

10 D. FOR SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,
11 PARAGRAPH 4, THE SUPERVISOR MUST OBSERVE THE APPLICANT ENGAGING IN BEHAVIOR
12 ANALYTIC ACTIVITIES IN THE NATURAL ENVIRONMENT AT LEAST ONCE EVERY TWO WEEKS.
13 THIS OBSERVATION MAY BE CONDUCTED BY WEB CAMERAS, VIDEOTAPE,
14 VIDEOCONFERENCING OR SIMILAR MEANS INSTEAD OF THE SUPERVISOR BEING PHYSICALLY
15 PRESENT. SUPERVISION MAY BE CONDUCTED IN SMALL GROUPS OF TEN OR FEWER
16 PARTICIPANTS FOR NOT MORE THAN HALF OF THE TOTAL SUPERVISED HOURS IN EACH
17 SUPERVISORY PERIOD. THE REMAINDER OF THE TOTAL SUPERVISION HOURS IN EACH
18 SUPERVISORY PERIOD MUST CONSIST OF DIRECT ONE-TO-ONE CONTACT. SUPERVISION
19 HOURS MAY BE COUNTED TOWARD THE TOTAL NUMBER OF EXPERIENCE HOURS REQUIRED.

20 E. A SUPERVISOR CONDUCTING THE SUPERVISED WORK EXPERIENCE PURSUANT TO
21 SUBSECTION D SHALL NOT BE THE APPLICANT'S RELATIVE, SUBORDINATE OR EMPLOYEE
22 DURING THE EXPERIENCE PERIOD. THE SUPERVISOR IS NOT AN EMPLOYEE OF THE
23 APPLICANT IF THE ONLY COMPENSATION RECEIVED BY THE SUPERVISOR FROM THE
24 APPLICANT CONSISTS OF PAYMENT FOR SUPERVISION. A SUPERVISOR MUST BE ONE OF
25 THE FOLLOWING:

26 1. A LICENSED BEHAVIOR ANALYST WHO MEETS REQUIREMENTS FOR LICENSURE
27 PURSUANT TO SUBSECTION A.

28 2. A BEHAVIOR ANALYST WHO IS CERTIFIED BY A NATIONALLY RECOGNIZED
29 BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD AND WHOSE
30 CERTIFICATION IS IN GOOD STANDING.

1 3. AN INDIVIDUAL WHO HAS APPLIED AND BEEN APPROVED TO TAKE A
2 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION EXAMINATION AS
3 DETERMINED BY THE BOARD.

4 4. AN INDIVIDUAL PROVIDING SUPERVISION BEFORE SEPTEMBER 1, 2006.

5 F. AN APPLICANT MAY SUBMIT A WRITTEN REQUEST TO THE BOARD FOR AN
6 EXEMPTION FROM THE REQUIREMENT PRESCRIBED IN SUBSECTION E. THE REQUEST MUST
7 INCLUDE THE NAME OF THE BEHAVIOR ANALYST PROPOSED BY THE APPLICANT TO ACT AS
8 THE CLINICAL SUPERVISOR, A COPY OF THE PROPOSED CLINICAL SUPERVISOR'S
9 TRANSCRIPT AND CURRICULUM VITAE AND ANY ADDITIONAL DOCUMENTATION REQUESTED BY
10 THE BOARD. THE BOARD SHALL REVIEW THE SUPERVISION EXEMPTION REQUEST TO
11 DETERMINE IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
12 AND EXPERIENCE TO PROVIDE SUPERVISION ACCEPTABLE FOR BEHAVIOR ANALYST
13 LICENSURE. IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
14 AND EXPERIENCE, THE BOARD SHALL GRANT THE SUPERVISION EXEMPTION REQUEST. THE
15 BOARD SHALL NOT GRANT AN EXEMPTION REQUEST FOR AN UNLICENSED CLINICAL
16 SUPERVISOR PROVIDING CLINICAL SUPERVISION IN THIS STATE AFTER JULY 1, 2010,
17 EXCEPT THAT AN EXEMPTION MAY BE GRANTED BY THE BOARD IF THE CLINICAL
18 SUPERVISOR HOLDS A CURRENT NATIONAL CERTIFICATION FROM A NATIONALLY
19 RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE
20 BEHAVIORAL ANALYST BOARD.

21 G. AN INDIVIDUAL WHO COMPLETED THE DEGREE, COURSEWORK OR EXPERIENCE
22 BEFORE JANUARY 1, 2000 MAY HAVE SUPERVISED WORK EXPERIENCE OR CORE SPECIFIED
23 COURSEWORK THAT WAS ACCRUED IN A SETTING OUTSIDE OF A COLLEGE OR UNIVERSITY
24 PROGRAM IF THE FOLLOWING CONDITIONS ARE MET:

25 1. THE ACQUIRED COURSEWORK OR SUPERVISED WORK EXPERIENCE WAS ACQUIRED
26 AFTER THE GRADUATE DEGREE AND BEFORE JANUARY 1, 2000.

27 2. THE APPLICANT HAS MET THE REQUIREMENTS FOR AND RECEIVED THE
28 CERTIFICATION CREDENTIAL FROM A NATIONALLY RECOGNIZED BEHAVIOR ANALYST
29 CERTIFICATION BOARD AS DETERMINED BY THE BEHAVIOR ANALYST BOARD.

30 H. THE BOARD MAY PRESCRIBE BY RULE ADDITIONAL REQUIREMENTS RELATING TO
31 EDUCATION AND TRAINING.

32 32-4323. Reciprocity

1 THE BOARD MAY ISSUE A LICENSE TO A PERSON AS A BEHAVIOR ANALYST IF THE
2 PERSON IS LICENSED OR CERTIFIED BY ANOTHER STATE REGULATORY AGENCY AT AN
3 EQUIVALENT OR HIGHER PRACTICE LEVEL AS DETERMINED BY THE BOARD, PAYS THE FEE
4 PRESCRIBED BY THE BOARD AND MEETS ALL OF THE FOLLOWING REQUIREMENTS:

5 1. SUBMITS A WRITTEN APPLICATION PRESCRIBED BY THE BOARD.

6 2. IS OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
7 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

8 3. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF OF INITIAL LICENSURE OR
9 CERTIFICATION AT AN EQUIVALENT DESIGNATION FOR WHICH THE APPLICANT IS SEEKING
10 LICENSURE IN THIS STATE AND PROOF THAT THE LICENSE OR CERTIFICATE IS CURRENT
11 AND IN GOOD STANDING.

12 4. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF THAT ANY OTHER LICENSE
13 OR CERTIFICATE ISSUED TO THE APPLICANT BY ANOTHER STATE HAS NOT BEEN
14 SUSPENDED OR REVOKED. IF A LICENSEE OR CERTIFICATE HOLDER HAS BEEN SUBJECTED
15 TO ANY OTHER DISCIPLINARY ACTION, THE BOARD MAY ASSESS THE MAGNITUDE OF THAT
16 ACTION AND MAKE A DECISION REGARDING RECIPROCITY BASED ON THIS ASSESSMENT.

17 5. MEETS ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD BY RULE.

18 32-4324. Examinations

19 A. AN APPLICANT FOR LICENSURE MUST PASS AN EXAMINATION FROM A
20 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY
21 THE BEHAVIOR ANALYST BOARD.

22 B. THE BOARD MAY REQUIRE AN ADDITIONAL EXAMINATION FOR ALL APPLICANTS
23 TO COVER AREAS OF PROFESSIONAL ETHICS AND PRACTICE THAT IS CONSISTENT WITH
24 THE APPLICANT'S EDUCATION AND EXPERIENCE, STATE LAW RELATING TO THE PRACTICE
25 OF BEHAVIOR ANALYSIS OR OTHER AREAS THE BOARD DETERMINES ARE SUITABLE.

26 C. AN APPLICANT MAY NOT TAKE AN EXAMINATION ADMINISTERED FOR OR BY THE
27 BOARD UNTIL THE APPLICANT COMPLETES THE EDUCATION REQUIREMENTS OF THIS
28 ARTICLE.

29 D. AN APPLICANT WHO FAILS THE NATIONAL EXAMINATION ADMINISTERED FOR OR
30 BY ANY JURISDICTION THREE TIMES IS NOT ELIGIBLE TO TAKE THAT EXAMINATION
31 AGAIN UNTIL THE APPLICANT MEETS ADDITIONAL REQUIREMENTS PRESCRIBED BY THE
32 BOARD.

32-4325. Temporary licenses; inactive status; reinstatement to
active status

A. IF THE BOARD REQUIRES AN ADDITIONAL EXAMINATION, IT MAY ISSUE A TEMPORARY LICENSE TO A BEHAVIOR ANALYST WHO IS LICENSED OR CERTIFIED UNDER THE LAWS OF ANOTHER JURISDICTION, IF THE BEHAVIOR ANALYST APPLIES TO THE BOARD FOR LICENSURE AND MEETS THE EDUCATIONAL, EXPERIENCE AND FIRST EXAMINATION REQUIREMENTS OF THIS ARTICLE.

B. A TEMPORARY LICENSE ISSUED PURSUANT TO THIS SECTION IS EFFECTIVE FROM THE DATE THE APPLICATION IS APPROVED UNTIL THE LAST DAY OF THE MONTH IN WHICH THE APPLICANT RECEIVES THE RESULTS OF THE ADDITIONAL EXAMINATION.

C. THE BOARD SHALL NOT EXTEND, RENEW OR REISSUE A TEMPORARY LICENSE OR ALLOW IT TO CONTINUE IN EFFECT BEYOND THE PERIOD AUTHORIZED BY THIS SECTION.

D. THE BOARD'S DENIAL OF AN APPLICATION FOR LICENSURE TERMINATES A TEMPORARY LICENSE.

E. THE BOARD MAY PLACE ON INACTIVE STATUS AND WAIVE THE LICENSE RENEWAL FEE REQUIREMENTS FOR A PERSON WHO IS TEMPORARILY OR PERMANENTLY UNABLE TO PRACTICE AS A BEHAVIOR ANALYST DUE TO PHYSICAL OR MENTAL INCAPACITY OR DISABILITY. AN INITIAL REQUEST FOR THE WAIVER OF RENEWAL FEES SHALL BE ACCOMPANIED BY THE RENEWAL FEE FOR AN ACTIVE LICENSE, WHICH THE BOARD SHALL RETURN IF THE WAIVER IS GRANTED. THE BOARD SHALL JUDGE EACH REQUEST FOR THE WAIVER OF RENEWAL FEES ON ITS OWN MERITS AND MAY SEEK THE VERIFICATION IT DEEMS NECESSARY TO SUBSTANTIATE THE FACTS OF THE SITUATION. A BEHAVIOR ANALYST WHO IS RETIRED IS EXEMPT FROM PAYING THE RENEWAL FEE. A BEHAVIOR ANALYST MAY REQUEST VOLUNTARY INACTIVE STATUS BY SUBMITTING TO THE BOARD AN APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND AN AFFIRMATION THAT THE BEHAVIOR ANALYST WILL NOT PRACTICE AS A BEHAVIOR ANALYST IN THIS STATE FOR THE DURATION OF THE VOLUNTARY INACTIVE STATUS AND BY PAYING THE REQUIRED FEE.

F. A BEHAVIOR ANALYST WHO IS ON ANY FORM OF INACTIVE STATUS SHALL RENEW THE INACTIVE STATUS EVERY TWO YEARS BY SUBMITTING A RENEWAL FORM PROVIDED BY THE BOARD AND PAYING ANY APPLICABLE FEE. A NOTICE TO RENEW IS FULLY EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME

1 OF ITS DEPOSIT IN THE MAIL. A BEHAVIOR ANALYST WHO IS ON INACTIVE STATUS DUE
2 TO PHYSICAL OR MENTAL INCAPACITY OR DISABILITY OR RETIREMENT SHALL USE THE
3 TERM "INACTIVE" TO DESCRIBE THE PERSON'S STATUS AND SHALL NOT PRACTICE AS A
4 BEHAVIOR ANALYST.

5 G. A BEHAVIOR ANALYST ON INACTIVE STATUS MAY REQUEST REINSTATEMENT OF
6 THE LICENSE TO ACTIVE STATUS BY APPLYING TO THE BOARD. THE BOARD SHALL
7 DETERMINE WHETHER THE PERSON HAS BEEN OR IS IN VIOLATION OF ANY PROVISIONS OF
8 THIS CHAPTER AND WHETHER THE PERSON HAS MAINTAINED AND UPDATED THE PERSON'S
9 PROFESSIONAL KNOWLEDGE AND CAPABILITY TO PRACTICE AS A BEHAVIOR ANALYST. THE
10 BOARD MAY REQUIRE THE PERSON TO TAKE OR RETAKE THE LICENSURE EXAMINATIONS AND
11 MAY REQUIRE OTHER KNOWLEDGE OR SKILL TRAINING EXPERIENCES. IF APPROVED FOR
12 ACTIVE STATUS, THE PERSON SHALL PAY A RENEWAL FEE THAT EQUALS THE RENEWAL FEE
13 FOR THE LICENSE TO BE REINSTATED.

14 32-4326. Active license; issuance; renewal; expiration;
15 continuing education

16 A. IF THE APPLICANT SATISFIES ALL OF THE REQUIREMENTS FOR LICENSURE
17 PURSUANT TO THIS ARTICLE, THE BOARD SHALL ISSUE AN ACTIVE LICENSE AND SHALL
18 PRORATE THE FEE FOR ISSUING THAT LICENSE FOR THE PERIOD REMAINING UNTIL MAY 1
19 OF THE NEXT ODD-NUMBERED YEAR.

20 B. A PERSON HOLDING AN ACTIVE OR INACTIVE LICENSE SHALL APPLY TO RENEW
21 THE LICENSE ON OR BEFORE APRIL 30 OF EACH ODD-NUMBERED YEAR. THE APPLICATION
22 SHALL INCLUDE ANY APPLICABLE RENEWAL FEE. A LICENSE EXPIRES IF THE LICENSEE
23 FAILS TO RENEW THE LICENSE ON OR BEFORE APRIL 30 OF THAT YEAR. A LICENSEE
24 MAY REINSTATE AN EXPIRED LICENSE BY PAYING A REINSTATEMENT FEE ON OR BEFORE
25 JUNE 30 OF THAT YEAR. BEGINNING ON JULY 1 OF THAT YEAR THROUGH APRIL 30 OF
26 THE NEXT YEAR, A LICENSEE MAY REINSTATE THE LICENSE BY PAYING A REINSTATEMENT
27 FEE AND PROVIDING PROOF OF COMPETENCY AND QUALIFICATIONS TO THE BOARD. THIS
28 PROOF MAY INCLUDE CONTINUING EDUCATION, AN ORAL EXAMINATION, A WRITTEN
29 EXAMINATION OR AN INTERVIEW WITH THE BOARD. A LICENSEE WHOSE LICENSE IS NOT
30 REINSTATED ON OR BEFORE APRIL 30 OF THE NEXT EVEN-NUMBERED YEAR MAY REAPPLY
31 FOR LICENSURE AS PRESCRIBED BY THIS ARTICLE. A NOTICE TO RENEW IS FULLY
32 EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST KNOWN

1 ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME OF
2 DEPOSIT IN THE MAIL.

3 C. A PERSON RENEWING A LICENSE SHALL ATTACH TO THE COMPLETED RENEWAL
4 FORM A REPORT OF DISCIPLINARY ACTIONS OR RESTRICTIONS PLACED AGAINST THE
5 LICENSE BY ANOTHER STATE LICENSING OR DISCIPLINARY BOARD OR DISCIPLINARY
6 ACTIONS OR SANCTIONS IMPOSED BY A STATE OR NATIONAL BEHAVIOR ANALYSIS ETHICS
7 COMMITTEE OR HEALTH CARE INSTITUTION. THE REPORT SHALL INCLUDE THE NAME AND
8 ADDRESS OF THE SANCTIONING AGENCY OR HEALTH CARE INSTITUTION, THE NATURE OF
9 THE ACTION TAKEN AND A GENERAL STATEMENT OF THE CHARGES LEADING TO THE
10 ACTION.

11 D. A PERSON WHO RENEWS AN ACTIVE LICENSE TO PRACTICE BEHAVIOR ANALYSIS
12 IN THIS STATE SHALL SATISFY A CONTINUING EDUCATION REQUIREMENT DESIGNED TO
13 PROVIDE THE NECESSARY UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS,
14 PROCEDURES OR TREATMENT RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS IN THE
15 AMOUNT AND DURING THE PERIOD THE BOARD PRESCRIBES. THE BOARD SHALL PRESCRIBE
16 DOCUMENTATION REQUIREMENTS.

17 32-4327. Exemptions from licensure

18 A. THIS CHAPTER DOES NOT LIMIT THE ACTIVITIES, SERVICES AND USE OF A
19 TITLE BY THE FOLLOWING:

20 1. A BEHAVIOR ANALYST WHO IS EMPLOYED IN A COMMON SCHOOL, HIGH SCHOOL
21 OR CHARTER SCHOOL SETTING AND WHO IS CERTIFIED TO USE THAT TITLE BY THE
22 DEPARTMENT OF EDUCATION IF THE SERVICES OR ACTIVITIES ARE A PART OF THE
23 DUTIES OF THAT PERSON'S COMMON SCHOOL, HIGH SCHOOL OR CHARTER SCHOOL
24 EMPLOYMENT.

25 2. AN EMPLOYEE OF A GOVERNMENT AGENCY IN A SUBDOCTORATE POSITION WHO
26 USES THE WORD "ASSISTANT" OR "ASSOCIATE" AFTER THE TITLE AND WHO IS
27 SUPERVISED BY A DOCTORATE POSITION EMPLOYEE WHO IS LICENSED AS A BEHAVIOR
28 ANALYST, INCLUDING A TEMPORARY LICENSEE.

29 3. A STUDENT OF BEHAVIOR ANALYSIS PURSUING AN OFFICIAL COURSE OF
30 GRADUATE STUDY AT AN EDUCATIONAL INSTITUTION ACCREDITED AS PRESCRIBED BY THE
31 BOARD, IF AFTER THE TITLE THE WORD "TRAINEE", "INTERN" OR "EXTERN" APPEARS

1 AND THE STUDENT USES THE TITLE ONLY IN CONJUNCTION WITH ACTIVITIES AND
2 SERVICES THAT ARE A PART OF THE SUPERVISED PROGRAM.

3 4. A PERSON WHO RESIDES OUTSIDE OF THIS STATE AND WHO IS CURRENTLY
4 LICENSED OR CERTIFIED AS A BEHAVIOR ANALYST IN THAT STATE IF THE ACTIVITIES
5 AND SERVICES CONDUCTED IN THIS STATE ARE WITHIN THE BEHAVIOR ANALYST'S
6 CUSTOMARY AREA OF PRACTICE, DO NOT EXCEED TWENTY DAYS PER YEAR AND ARE NOT
7 OTHERWISE IN VIOLATION OF THIS CHAPTER AND THE CLIENT, PUBLIC OR CONSUMER IS
8 INFORMED OF THE LIMITED NATURE OF THESE ACTIVITIES AND SERVICES AND THAT THE
9 BEHAVIOR ANALYST IS NOT LICENSED IN THIS STATE.

10 5. A PERSON IN THE EMPLOY OF ARIZONA STATE UNIVERSITY, NORTHERN
11 ARIZONA UNIVERSITY OR THE UNIVERSITY OF ARIZONA IF THE SERVICES ARE A PART OF
12 THE FACULTY DUTIES OF THAT PERSON'S SALARIED POSITION AND THE PERSON IS
13 PARTICIPATING IN A POSTDOCTORAL PROGRAM.

14 6. A SUPERVISEE WHO IS PURSUING A POSTDOCTORAL PROFESSIONAL EXPERIENCE
15 IF THE SERVICES OR ACTIVITIES ARE PROVIDED UNDER THE DIRECT SUPERVISION OF A
16 LICENSED BEHAVIOR ANALYST, CLIENTS ARE INFORMED OF THE TRAINING NATURE OF THE
17 SERVICES PROVIDED AND THE SUPERVISEE HAS A TITLE THAT DESIGNATES THAT
18 PERSON'S TRAINING STATUS.

19 B. THIS CHAPTER DOES NOT LIMIT THE USE OF THE TITLE "BEHAVIOR ANALYST"
20 BY A PERSON WHO POSSESSES A DOCTORAL DEGREE FROM AN EDUCATIONAL INSTITUTION
21 IF THAT PERSON IS NOT ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS.

22 C. THIS CHAPTER DOES NOT PREVENT A MEMBER OF OTHER RECOGNIZED
23 PROFESSIONS WHO IS LICENSED, CERTIFIED OR REGULATED UNDER THE LAWS OF THIS
24 STATE FROM RENDERING SERVICES WITHIN THAT PERSON'S SCOPE OF PRACTICE AND CODE
25 OF ETHICS IF THAT PERSON DOES NOT CLAIM TO BE A BEHAVIOR ANALYST.

26 ARTICLE 3. REGULATION

27 32-4351. Grounds for disciplinary action; duty to report;
28 immunity; proceedings; board action; notice
29 requirements; civil penalty

30 A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE EVIDENCE THAT APPEARS
31 TO SHOW THAT A LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF
32 UNPROFESSIONAL CONDUCT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN

1 THE PRACTICE OF BEHAVIOR ANALYSIS. A HEALTH CARE INSTITUTION SHALL, AND ANY
2 OTHER PERSON MAY, REPORT TO THE BOARD INFORMATION THAT APPEARS TO SHOW THAT A
3 LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
4 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
5 ANALYSIS. THE BOARD SHALL NOTIFY THE LICENSEE ABOUT WHOM INFORMATION HAS
6 BEEN RECEIVED AS TO THE CONTENT OF THE INFORMATION WITHIN ONE HUNDRED TWENTY
7 DAYS AFTER RECEIVING THE INFORMATION. A PERSON WHO REPORTS OR PROVIDES
8 INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL
9 DAMAGES. THE BOARD, IF REQUESTED, SHALL NOT DISCLOSE THE NAME OF THE PERSON
10 PROVIDING INFORMATION UNLESS THIS INFORMATION IS ESSENTIAL TO PROCEEDINGS
11 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD SHALL REPORT A HEALTH CARE
12 INSTITUTION THAT FAILS TO REPORT AS REQUIRED BY THIS SECTION TO THE
13 INSTITUTION'S LICENSING AGENCY.

14 B. A HEALTH CARE INSTITUTION SHALL INFORM THE BOARD IF THE PRIVILEGES
15 OF A LICENSEE TO PRACTICE IN THAT INSTITUTION ARE DENIED, REVOKED, SUSPENDED
16 OR LIMITED BECAUSE OF ACTIONS BY THE LICENSEE THAT APPEAR TO SHOW THAT THE
17 PERSON IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
18 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
19 ANALYSIS, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE HEALTH
20 CARE INSTITUTION TO TAKE THIS ACTION. A HEALTH CARE INSTITUTION SHALL INFORM
21 THE BOARD IF A LICENSEE UNDER INVESTIGATION RESIGNS THE LICENSEE'S PRIVILEGES
22 OR IF A LICENSEE RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE HEALTH CARE
23 INSTITUTION. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS
24 FOR THE RESIGNATION.

25 C. THE BOARD MAY REQUIRE THE LICENSEE TO UNDERGO ANY COMBINATION OF
26 MENTAL, PHYSICAL OR PSYCHOLOGICAL COMPETENCE EXAMINATIONS AT THE LICENSEE'S
27 EXPENSE AND SHALL CONDUCT INVESTIGATIONS NECESSARY TO DETERMINE THE
28 COMPETENCE AND CONDUCT OF THE LICENSEE.

29 D. THE CHAIRPERSON OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING
30 COMMITTEE OF AT LEAST THREE MEMBERS OF THE BOARD, INCLUDING A PUBLIC MEMBER.
31 THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING REQUIREMENTS
32 PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT SCREENING

1 COMMITTEE SHALL REVIEW ALL COMPLAINTS AND, BASED ON THE INFORMATION PROVIDED
2 PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF THE
3 FOLLOWING ACTIONS:

4 1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE
5 COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING
6 COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED
7 ON THE BOARD'S WEBSITE.

8 2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND
9 ACTION.

10 E. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER
11 SUBSECTION A OR B OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
12 REQUIRES EMERGENCY ACTION, THE BOARD MAY ORDER A SUMMARY SUSPENSION OF A
13 LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD
14 ISSUES THIS ORDER, IT SHALL SERVE THE LICENSEE WITH A WRITTEN NOTICE OF
15 COMPLAINT AND FORMAL HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10,
16 SETTING FORTH THE CHARGES MADE AGAINST THE LICENSEE AND THE LICENSEE'S RIGHT
17 TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE WITHIN
18 SIXTY DAYS.

19 F. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
20 SUBSECTION A OR B OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT
21 DIRECT ACTION AGAINST THE LICENSEE, IT MAY TAKE ANY OF THE FOLLOWING ACTIONS:

22 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.

23 2. FILE A LETTER OF CONCERN.

24 3. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
25 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
26 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
27 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

28 G. IF THE BOARD BELIEVES THE INFORMATION PROVIDED PURSUANT TO
29 SUBSECTION A OR B OF THIS SECTION IS OR MAY BE TRUE, IT MAY REQUEST AN
30 INFORMAL INTERVIEW WITH THE LICENSEE. IF THE LICENSEE REFUSES TO BE
31 INTERVIEWED OR IF PURSUANT TO AN INTERVIEW THE BOARD DETERMINES THAT CAUSE
32 MAY EXIST TO REVOKE OR SUSPEND THE LICENSE, IT SHALL ISSUE A FORMAL COMPLAINT

1 AND HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. IF AS A
2 RESULT OF AN INFORMAL INTERVIEW OR A HEARING THE BOARD DETERMINES THAT THE
3 FACTS DO NOT WARRANT REVOCATION OR SUSPENSION OF THE LICENSE, IT MAY TAKE ANY
4 OF THE FOLLOWING ACTIONS:

- 5 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.
- 6 2. FILE A LETTER OF CONCERN.
- 7 3. ISSUE A DECREE OF CENSURE.
- 8 4. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
9 PUBLIC HEALTH AND SAFETY AND TO REHABILITATE OR EDUCATE THE LICENSEE.
10 PROBATION MAY INCLUDE TEMPORARY SUSPENSION FOR NOT MORE THAN TWELVE MONTHS,
11 RESTRICTION OF THE LICENSE OR RESTITUTION OF FEES TO A CLIENT RESULTING FROM
12 VIOLATIONS OF THIS CHAPTER. IF A LICENSEE FAILS TO COMPLY WITH A TERM OF
13 PROBATION, THE BOARD MAY FILE A COMPLAINT AND NOTICE OF HEARING PURSUANT TO
14 TITLE 41, CHAPTER 6, ARTICLE 10 AND TAKE FURTHER DISCIPLINARY ACTION.

15 5. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO RESTRICT OR LIMIT THE
16 LICENSEE'S PRACTICE OR ACTIVITIES IN ORDER TO REHABILITATE THE LICENSEE,
17 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE
18 PRACTICE OF BEHAVIOR ANALYSIS.

19 6. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
20 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
21 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
22 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

23 H. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
24 SUBSECTION A OR B OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A
25 LICENSE, IT SHALL HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.
26 NOTICE OF A COMPLAINT AND HEARING IS FULLY EFFECTIVE BY MAILING A TRUE COPY
27 TO THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILES. NOTICE
28 IS COMPLETE AT THE TIME OF ITS DEPOSIT IN THE MAIL.

29 I. THE BOARD MAY IMPOSE A CIVIL PENALTY OF AT LEAST THREE HUNDRED
30 DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
31 CHAPTER OR A RULE ADOPTED UNDER THIS CHAPTER. THE BOARD SHALL DEPOSIT,

1 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IT COLLECTS FROM CIVIL
2 PENALTIES PURSUANT TO THIS SUBSECTION IN THE STATE GENERAL FUND.

3 J. IF THE BOARD DETERMINES AFTER A HEARING THAT A LICENSEE HAS
4 COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT, IS MENTALLY OR PHYSICALLY UNABLE
5 TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS OR IS PSYCHOLOGICALLY
6 INCOMPETENT, IT MAY DO ANY OF THE FOLLOWING IN ANY COMBINATION AND FOR ANY
7 PERIOD OF TIME IT DETERMINES NECESSARY:

8 1. SUSPEND OR REVOKE THE LICENSE.

9 2. CENSURE THE LICENSEE.

10 3. PLACE THE LICENSEE ON PROBATION.

11 K. A LICENSEE MAY SUBMIT A WRITTEN RESPONSE TO THE BOARD WITHIN THIRTY
12 DAYS AFTER RECEIVING A LETTER OF CONCERN. THE RESPONSE IS A PUBLIC DOCUMENT
13 AND SHALL BE PLACED IN THE LICENSEE'S FILE.

14 L. A LETTER OF CONCERN IS A PUBLIC DOCUMENT AND MAY BE USED IN FUTURE
15 DISCIPLINARY ACTIONS AGAINST A LICENSEE. A DECREE OF CENSURE IS AN OFFICIAL
16 ACTION AGAINST THE BEHAVIOR ANALYST'S LICENSE AND MAY INCLUDE A REQUIREMENT
17 THAT THE LICENSEE RETURN FEES TO A CLIENT.

18 M. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A PERSON
19 MAY APPEAL A FINAL DECISION MADE PURSUANT TO THIS SECTION TO THE SUPERIOR
20 COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

21 N. IF DURING THE COURSE OF AN INVESTIGATION THE BOARD DETERMINES THAT
22 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE DELIVERY OF BEHAVIOR
23 ANALYSIS SERVICES, IT SHALL INFORM THE APPROPRIATE CRIMINAL JUSTICE AGENCY.

24 32-4352. Right to examine and copy evidence; subpoenas; right
25 to counsel; confidentiality

26 A. IN CONNECTION WITH AN INVESTIGATION CONDUCTED PURSUANT TO THIS
27 CHAPTER, AT ALL REASONABLE TIMES THE BOARD AND ITS AUTHORIZED AGENTS MAY
28 EXAMINE AND COPY DOCUMENTS, REPORTS, RECORDS AND OTHER PHYSICAL EVIDENCE
29 WHEREVER LOCATED RELATING TO THE LICENSEE'S PROFESSIONAL COMPETENCE,
30 UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY TO SAFELY PRACTICE
31 BEHAVIOR ANALYSIS.

1 B. THE BOARD AND ITS AUTHORIZED AGENTS MAY ISSUE SUBPOENAS TO COMPEL
2 THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND
3 OTHER PHYSICAL EVIDENCE AS PRESCRIBED IN SUBSECTION A. THE BOARD MAY
4 PETITION THE SUPERIOR COURT TO ENFORCE A SUBPOENA.

5 C. WITHIN FIVE DAYS OF RECEIVING A SUBPOENA, A PERSON MAY PETITION THE
6 BOARD TO REVOKE, LIMIT OR MODIFY THE SUBPOENA. THE BOARD SHALL TAKE THIS
7 ACTION IF IT DETERMINES THAT THE EVIDENCE DEMANDED IS NOT RELEVANT TO THE
8 INVESTIGATION. THE PERSON MAY PETITION THE SUPERIOR COURT FOR THIS RELIEF
9 WITHOUT FIRST PETITIONING THE BOARD.

10 D. A PERSON APPEARING BEFORE THE BOARD OR ITS AUTHORIZED AGENTS MAY BE
11 REPRESENTED BY AN ATTORNEY.

12 E. DOCUMENTS ASSOCIATED WITH AN INVESTIGATION ARE NOT OPEN TO THE
13 PUBLIC AND SHALL REMAIN CONFIDENTIAL. DOCUMENTS MAY NOT BE RELEASED WITHOUT
14 A COURT ORDER COMPELLING THEIR PRODUCTION.

15 F. THIS SECTION OR ANY OTHER PROVISION OF LAW MAKING COMMUNICATIONS
16 BETWEEN A BEHAVIOR ANALYST AND CLIENT PRIVILEGED DOES NOT APPLY TO AN
17 INVESTIGATION CONDUCTED PURSUANT TO THIS CHAPTER. THE BOARD, ITS EMPLOYEES
18 AND ITS AGENTS SHALL KEEP IN CONFIDENCE THE NAMES OF CLIENTS WHOSE RECORDS
19 ARE REVIEWED DURING AN INVESTIGATION.

20 32-4353. Injunction

21 A. THE BOARD MAY PETITION THE SUPERIOR COURT FOR AN ORDER TO ENJOIN
22 THE FOLLOWING:

23 1. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER FROM
24 PRACTICING BEHAVIOR ANALYSIS.

25 2. THE ACTIVITIES OF A LICENSEE THAT ARE AN IMMEDIATE THREAT TO THE
26 PUBLIC.

27 3. CRIMINAL ACTIVITIES.

28 B. IF THE BOARD SEEKS AN INJUNCTION TO STOP THE UNLICENSED PRACTICE OF
29 BEHAVIOR ANALYSIS, IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT ON A
30 CERTAIN DAY IN A SPECIFIC COUNTY ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS
31 WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSURE REQUIREMENTS OF
32 THIS CHAPTER. IT IS NOT NECESSARY TO SHOW SPECIFIC DAMAGES OR INJURY.

1 C. THE ISSUANCE OF AN INJUNCTION DOES NOT LIMIT THE BOARD'S AUTHORITY
2 TO TAKE OTHER ACTION AGAINST A LICENSEE PURSUANT TO THIS CHAPTER.

3 32-4354. Violations: classification

4 A. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
5 PURSUANT TO THIS CHAPTER TO ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

6 B. IT IS A CLASS 2 MISDEMEANOR FOR ANY PERSON TO:

7 1. SECURE A LICENSE TO PRACTICE PURSUANT TO THIS CHAPTER BY FRAUD OR
8 DECEIT.

9 2. IMPERSONATE A MEMBER OF THE BOARD IN ORDER TO ISSUE A LICENSE TO
10 PRACTICE PURSUANT TO THIS CHAPTER.

11 C. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
12 PURSUANT TO THIS CHAPTER TO USE ANY COMBINATION OF WORDS, INITIALS AND
13 SYMBOLS THAT LEADS THE PUBLIC TO BELIEVE THE PERSON IS LICENSED TO PRACTICE
14 BEHAVIOR ANALYSIS IN THIS STATE.

15 32-4355. Confidential communications

16 A. THE CONFIDENTIAL RELATIONS AND COMMUNICATIONS BETWEEN A CLIENT AND
17 A LICENSEE, INCLUDING TEMPORARY LICENSEES, ARE PLACED ON THE SAME BASIS AS
18 THOSE PROVIDED BY LAW BETWEEN AN ATTORNEY AND CLIENT. UNLESS THE CLIENT
19 WAIVES THE BEHAVIOR ANALYST-CLIENT PRIVILEGE IN WRITING OR IN COURT
20 TESTIMONY, A BEHAVIOR ANALYST SHALL NOT VOLUNTARILY OR INVOLUNTARILY DIVULGE
21 INFORMATION THAT IS RECEIVED BY REASON OF THE CONFIDENTIAL NATURE OF THE
22 BEHAVIOR ANALYST'S PRACTICE. THE BEHAVIOR ANALYST SHALL DIVULGE TO THE BOARD
23 INFORMATION IT REQUIRES IN CONNECTION WITH ANY INVESTIGATION, PUBLIC HEARING
24 OR OTHER PROCEEDING. THE BEHAVIOR ANALYST-CLIENT PRIVILEGE DOES NOT
25 EXTEND TO CASES IN WHICH THE BEHAVIOR ANALYST HAS A DUTY TO REPORT
26 INFORMATION AS REQUIRED BY LAW.

27 B. THE BEHAVIOR ANALYST SHALL ENSURE THAT CLIENT RECORDS AND
28 COMMUNICATIONS ARE TREATED BY CLERICAL AND PARAPROFESSIONAL STAFF AT THE SAME
29 LEVEL OF CONFIDENTIALITY AND PRIVILEGE REQUIRED OF THE BEHAVIOR ANALYST.

30 Sec. 3. Section 41-1092, Arizona Revised Statutes, is amended to read:

31 41-1092. Definitions

32 In this article, unless the context otherwise requires:

1 1. "Administrative law judge" means an individual or an agency head,
2 board or commission that sits as an administrative law judge, that conducts
3 administrative hearings in a contested case or an appealable agency action
4 and that makes decisions regarding the contested case or appealable agency
5 action.

6 2. "Administrative law judge decision" means the findings of fact,
7 conclusions of law and recommendations or decisions issued by an
8 administrative law judge.

9 3. "Appealable agency action" means an action that determines the
10 legal rights, duties or privileges of a party and that is not a contested
11 case. Appealable agency actions do not include interim orders by
12 self-supporting regulatory boards or rules, orders, standards or statements
13 of policy of general application issued by an administrative agency to
14 implement, interpret or make specific the legislation enforced or
15 administered by it, nor does it mean or include rules concerning the internal
16 management of the agency that do not affect private rights or interests. For
17 the purposes of this paragraph, administrative hearing does not include a
18 public hearing held for the purpose of receiving public comment on a proposed
19 agency action.

20 4. "Director" means the director of the office of administrative
21 hearings.

22 5. "Final administrative decision" means a decision by an agency that
23 is subject to judicial review pursuant to title 12, chapter 7, article 6.

24 6. "Office" means the office of administrative hearings.

25 7. "Self-supporting regulatory board" means any one of the following:

26 (a) The ARIZONA state board of accountancy.

27 (b) The state board of appraisal.

28 (c) The board of barbers.

29 (d) The board of behavioral health examiners.

30 (e) The Arizona state boxing commission.

31 (f) The state board of chiropractic examiners.

32 (g) The board of cosmetology.

- 1 (h) The state board of dental examiners.
- 2 (i) The state board of funeral directors and embalmers.
- 3 (j) The Arizona game and fish commission.
- 4 (k) The board of homeopathic medical examiners.
- 5 (l) The Arizona medical board.
- 6 (m) The naturopathic physicians board of medical examiners.
- 7 (n) The state board of nursing.
- 8 (o) The board of examiners of nursing care institution administrators
- 9 and adult care home managers.
- 10 (p) The board of occupational therapy examiners.
- 11 (q) The state board of dispensing opticians.
- 12 (r) The state board of optometry.
- 13 (s) The Arizona board of osteopathic examiners in medicine and
- 14 surgery.
- 15 (t) The Arizona peace officer standards and training board.
- 16 (u) The Arizona state board of pharmacy.
- 17 (v) The board of physical therapy examiners.
- 18 (w) The state board of podiatry examiners.
- 19 (x) The state board for private postsecondary education.
- 20 (y) The state board of psychologist examiners.
- 21 (z) The board of respiratory care examiners.
- 22 (aa) The structural pest control commission.
- 23 (bb) The state board of technical registration.
- 24 (cc) The Arizona state veterinary medical examining board.
- 25 (dd) The acupuncture board of examiners.
- 26 (ee) The Arizona regulatory board of physician assistants.
- 27 (ff) The board of athletic training.
- 28 (gg) The board of massage therapy.
- 29 (hh) [THE BEHAVIOR ANALYST BOARD.](#)

30 Sec. 4. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
31 amended by adding section 41-3018.01, to read:

32 [41-3018.01. Behavior analyst board; termination July 1, 2018](#)

1 A. THE BEHAVIOR ANALYST BOARD TERMINATES ON JULY 1, 2018.

2 B. TITLE 32, CHAPTER 43 IS REPEALED ON JANUARY 1, 2019.

3 Sec. 5. Initial terms of members of the behavioral analyst
4 board

5 A. Notwithstanding section 32-4302, Arizona Revised Statutes, as added
6 by this act, the initial terms of the behavior analyst board are:

7 1. One term ending January 31, 2010.

8 2. Two terms ending January 31, 2011.

9 3. Two terms ending January 31, 2012.

10 B. The governor shall make all subsequent appointments as prescribed
11 by statute.

12 Sec. 6. Exemption from rule making

13 For the purposes of this act, the behavior analyst board is exempt from
14 the rule making requirements of title 41, chapter 6, Arizona Revised
15 Statutes, for two years after the effective date of this act.

16 Sec. 7. Purpose

17 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
18 the legislature establishes the behavior analyst board to promote the safe
19 and professional practice of behavior analysis services."

20 Amend title to conform

and, as so amended, it do pass

BOB STUMP
Chairman

2470-se-health
2/20/08
H:jjb

2470db
02/13/2008
3:35 PM
C: jcs